## UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD THIRD REGION

HISPANICS UNITED OF BUFFALO, INC.

and

Case 3-CA-27872

CARLOS ORTIZ, AN INDIVIDUAL

# ACTING GENERAL COUNSEL'S MOTION IN OPPOSITION TO RESPONDENT'S PETITION FOR EXTENSION OF TIME TO FILE EXCEPTIONS WITH THE NATIONAL LABOR RELATIONS BOARD

On September 2, 2011, Administrative Law Judge Arthur J. Amchan issued a decision and order in the above-referenced case. The due date for the filing of exceptions to Judge Amchan's decision is September 30, 2011.

On September 7, 2011, Respondent, pursuant to Section 102.46(a) of the Board's Rules and Regulations, filed a petition for extension of time to file with the Board exceptions to the administrative law judge's decision. Respondent requests that the due date for filing with the Board exceptions to the administrative law judge's decision and a supporting brief be extended from September 30, 2011 to October 21, 2011.

General Counsel opposes Respondent's request for such an extension for the following reasons:

1. This matter involves five discriminatees who were terminated by Respondent on October 12, 2010, and who remain unreinstated. Any continued delay in the adjudication of this case will have a detrimental impact upon the discriminatees, who have been waiting for a finalized determination regarding a decision and remedy for quite some time.

2. The three-day length of the hearing, the transcript length of 603 pages, and the length

of the administrative law judge's decision does not warrant granting a request for an extension

for three weeks.

3. Respondent's counsel states that he did not anticipate such a quick decision from the

administrative law judge, and that he has unspecified scheduling conflicts which prevent

Respondent's timely filing of exceptions with a supporting brief. Respondent's rationale should

be rejected, inasmuch as Respondent's counsel's failure to anticipate an expeditious decision

from the administrative law judge, should not be an excuse to disadvantage the discriminatees,

by unnecessarily delaying by three weeks the initiation of the review of this matter by the Board.

4. As indicated in Respondent's petition for an extension of time to file exceptions,

General Counsel is agreeable to a two-week extension from September 30, 2011 until October

14, 2011, for the filing of exceptions and supporting brief, which should address Respondent's

unspecified scheduling concerns.

DATED at Buffalo, New York

this 8<sup>th</sup> day of September, 2011

Respectfully submitted,

/s/ Aaron B. Sukert

Aaron B. Sukert

COUNSEL FOR THE

**ACTING GENERAL COUNSEL** 

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#### STATEMENT OF SERVICE

I hereby certify that copies of the Acting General Counsel's Motion in Opposition to Respondent's Petition for Extension of Time to File Exceptions with the Board in Case 3-CA-27872 were served this date on the following parties and counsel:

## By electronic filing with:

National Labor Relations Board, Executive Secretary

## By electronic mail upon:

Mr. Rafael Gomez, Esq. LoTempio and Brown 181 Franklin Street Buffalo, NY 14202 rgomez@lotempoioandbrown.com

Mr. Carlos Ortiz 439 West Ferry Street Apt. 201 Buffalo, NY 14213 carlosodi@gmail.com

Dated September 8, 2011 At Buffalo, New York

Respectfully Submitted,

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Counsel for the Acting General Counsel

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